

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q78138

Michel CHEVANNE, et al.

Appln. No.: 10/697,125

Group Art Unit: 2446

Confirmation No.: 9445

Examiner: Shaq Taha

Filed: October 31, 2003

For: A DEVICE AND METHOD FOR CONTROLLING NETWORK EQUIPMENT
MANAGEMENT DATA, FOR A COMMUNICATIONS NETWORK MANAGEMENT
SYSTEM

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

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I. REAL PARTY IN INTEREST

The real party in interest is ALCATEL, by virtue of an assignment executed by Michel CHEVANNE, Philippe DRUGMAND, and Patrick BERGEOT (Appellants, hereafter), on July 9, 2003, and recorded by the Assignment branch of the U.S. Patent and Trademark Office on October 31, 2003 (at Reel 014659, Frame 0875).

II. RELATED APPEALS AND INTERFERENCES

To the knowledge and belief of Appellants, the Assignee, and the undersigned, there are no other appeals or interferences before the Board of Appeals and Interferences that will directly affect or be affected by the Board's decision in the instant Appeal.

III. STATUS OF CLAIMS

This Application was originally filed with claims 1-21 which are the subject of this appeal.

Claims 1, 5-11, and 15 stand rejected under 35 U.S.C. 102(e) as being allegedly anticipated by Gandhi et al. (U.S. 2005/0267935; hereinafter “Gandhi”). Claims 2, 3, 4, 12-14, and 16-20 stand rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Gandhi in view of Chobotaro et al. (U.S. 2003/0202408; hereinafter “Chobotaro”). Claim 21 stands rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Gandhi in view of Chobotaro, and further in view of Bowman-Amuah et al. (U.S. 6,611,867; hereinafter “Bowman-Amuah”).

The rejections of claims 1-21 are being appealed.

IV. STATUS OF AMENDMENTS

No claim amendments were requested subsequent to the Final Office Action dated July 9, 2008. Thus, the claims stand as presented prior to the Final Office Action dated July 9, 2008.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The instant application is directed to a device and method for controlling equipment management data in a communications network.

Independent claim 1 is directed to a device for controlling equipment management data in a communications network comprising a network management system¹ capable of managing said equipment management data² using previously loaded management data modules³, associated with said equipment management data and stored in a memory⁴, said device comprising control means⁵ which when there is a request by said network management system to take over⁶ at least one new item of equipment management data⁷ in said communications network, extracts⁸ from said memory the management data module⁹ associated with said at least one new item of equipment¹⁰, and then loads into said network management system each new management data

¹ See page 7, lines 22-23.

² See page 9, lines 12-13.

³ See page 9, lines 8-9.

⁴ See FIG. 1, element 9; and page 9, line 7.

⁵ See page 10, lines 14-15.

⁶ See page 10, line 17.

⁷ See page 10, line 16.

⁸ See page 10, line 15.

⁹ See page 10, line 18.

¹⁰ See page 12, lines 5-7.

module extracted, dynamically¹¹, so that the management by said network management system of said equipment management data in said communications network is not interrupted¹².

Claim 2 is directed to a device according to claim 1, wherein said control means which controls, whenever a new management data module is loaded¹³, associated with a new version of equipment which has not yet been integrated in said communications network¹⁴ while an old management data module associated with a prior version of the equipment is still loaded and said prior version of the equipment is still integrated in said communications network¹⁵, i) to put said new management data module loaded on standby so as to continue the management of said prior version of the equipment from said old management data module, until said new version of the equipment is integrated¹⁶, and then ii), when data indicating an integration of said new version of the equipment are received, to put said new management data module loaded into service so as to provide the management of said new version of the equipment from said new management data module¹⁷.

¹¹ See page 10, lines 19-21.

¹² See page 10, lines 21-24.

¹³ See page 12, lines 5-7.

¹⁴ See page 12, lines 7-9.

¹⁵ See page 12, lines 9-12.

¹⁶ See page 12, lines 16-19.

¹⁷ See page 12, lines 22-29.

Claim 3 is directed to a device according to claim 2, wherein said standby consists firstly of allowing the management of said new version of the equipment from said new management data module, without taking account of error messages related to its non-integration in said communications network¹⁸, and secondly to send a message to said old management data module indicating that a change of version is under way and that said old management data module must not take account of at least some of the error messages related to a conjoint management of the old and new versions of the equipment¹⁹.

Claim 4 is directed to a device according to claim 2, wherein said control means which, in a case of synchronization between said new version of the equipment and said new management data module²⁰, deletes said old management data module²¹.

Claim 5 is directed to a device according to claim 1, wherein said control means loads management data modules according to at least a first mode in which said management data modules are loaded independently of dependencies between said management data modules²² and a second mode in which, in loading said management data modules, account is taken of the dependencies between them²³.

¹⁸ See page 13, lines 13-17.

¹⁹ See page 13, lines 19-22.

²⁰ See page 14, lines 1-4.

²¹ See page 14, lines 5-7.

²² See page 14, line 22.

²³ See page 14, lines 20-21.

Independent claim 11 is directed to a method of controlling equipment management data²⁴ in a communications network²⁵, in which network equipment is managed using loaded management data modules²⁶, associated with said network equipment²⁷, wherein, in the case of a request to take over at least one new item of equipment in said communications network²⁸, new management data module associated with said at least one new item of equipment is loaded dynamically²⁹ so that management of other network equipment in said communications network is not interrupted³⁰.

Claim 13 is directed to a method according to claim 12, wherein said putting on standby comprises firstly of allowing the management of said at least one new item of equipment using said associated new management data module without taking account of error messages related to non-integration in said communications network³¹, and secondly of sending a message to said old management data module signalling a change of version is under way and that said old management data module must not take account of at least some of the error messages related to

²⁴ See page 15, lines 5-6.

²⁵ See page 15, line 6.

²⁶ See page 15, lines 7-8.

²⁷ See page 15, lines 8-9.

²⁸ See page 15, lines 18-19.

²⁹ See page 15, lines 19-21.

³⁰ See Page 15, lines 21-23.

³¹ See page 13, lines 13-17.

a conjoint management of said prior version of the equipment and said at least one new item of equipment³².

Claim 14 is directed to a method according to claim 12, wherein, in the case of synchronization between said at least one new item of equipment and said new management data module³³, said old management data module is deleted³⁴.

Claim 15 is directed to a method according to claim 11, wherein management data modules are loaded independently of dependencies thereof³⁵ or taking account of said dependencies thereof³⁶.

Claim 21 is directed to a method according to claim 20, wherein said network technologies are chosen from a group comprising:

transmission networks comprising WDM, SONET and SDH type³⁷;

data networks comprising Internet-IP and ATM type³⁸; and

voice networks comprising conventional, mobile and NGN type³⁹.

³² See page 13, lines 19-22.

³³ See page 14, lines 1-4.

³⁴ See page 14, lines 5-7.

³⁵ See page 14, line 22.

³⁶ See page 14, lines 20-21.

³⁷ See page 8, line 16.

³⁸ See page 8, lines 16-17.

³⁹ See page 8, line 18.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1, 5-11, and 15 stand rejected under 35 U.S.C. 102(e) as being allegedly anticipated by Gandhi et al. (U.S. 2005/0267935; hereinafter “Gandhi”).
2. Claims 2, 3, 4, 12-14, and 16-20 stand rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Gandhi in view of Chobotaro et al. (U.S. 2003/0202408; hereinafter “Chobotaro”).
3. Claim 21 stands rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Gandhi in view of Chobotaro, and further in view of Bowman-Amuah et al. (U.S. 6,611,867; hereinafter “Bowman-Amuah”).

VII. ARGUMENT

For each ground of rejection, the claims do not stand or fall together but are patentable on separate grounds as forth below.

1. Rejection of Claims 1, 5-11, and 15 based on Gandhi

Claim 1

Appellants respectfully submit that claim 1 is not anticipated by Gandhi. Specifically, claim 1 recites, in part:

A device for controlling *equipment management data* in a communications network comprising a network management system capable of managing said equipment management data *using previously loaded management data modules*, associated with said equipment management data and stored in a memory, said device comprising control means which when there is a request by said network management system to take over at least one new item of equipment management data in said communications network, extracts from said *memory the management data module associated with said at least one new item of equipment*.

As set forth on page 3 of the Action dated July 9, 2008, the Examiner asserts:

User Control Point. The set of modules that enable communication with a UPnP Controlled Device. User Control Points initiate discovery and communication with Controlled Devices, and receive Events from Controlled Devices, wherein the controlled devices are the equipment managed using loaded management loaded modules, (Gandhi et al., Paragraph 0059, Page 4)

and

A User Control Point uploads the Description Document and extracts the URLs of the Servers running on the Controlled Device or Bridge, wherein *the description documents are the management data* associated with the new controlled device, (Gandhi et al., Paragraph 0184, Page 10),

as allegedly disclosing the above recited features of claim 1. Appellants respectfully disagree with the Examiner's position.

In Gandhi, user control points 104 and controlled device 106 are components of the multiple function device 100. (See FIG. 1). The user control point initiates communications and receives events from controlled devices. (See paragraph [0128]). In operation, however, the user control point only receives one description document per control device. (See paragraphs [0075] and [0132]). Each description document is specific to each control device and each control device only provides the description document of itself. (See paragraph [0075]). Thus, Gandhi does not teach or suggest “a memory” which stores “loaded management data modules” as recited in claim 1.

Claim 1 also recites, in part:

and then loads into said network management system each new management data module extracted, dynamically, so that the management by said network management system of said equipment management data in said communications network is not interrupted.

The Examiner asserts on page 3 of the Office Action dated July 9, 2008:

in configured networks, dynamic detection allows an operating system to immediately begin using added devices or stop using removed devices without rebooting, wherein the new device is managed and the management data is loaded without rebooting or interrupting the network, (Gandhi et al., Paragraph [0568], Page 29),

as allegedly disclosing the above recited features. Appellants respectfully disagree with the Examiner’s position.

The Examiner asserts that the “description document” allegedly corresponds to the “management data module” of the present invention. The Examiner also asserts that the “dynamic detection” of Gandhi discloses, “loads into said network management system each new management data module extracted, dynamically, so that the management by said network

management system of said equipment management data in said communications network is not interrupted”. Gandhi, however, makes no disclosure of the relation between the “description document” and the “dynamic detection”. Furthermore, the “dynamic detection” of Gandhi does not teach or suggest the “management data module”. At best, the “dynamic detection” of Gandhi teaches devices may be interconnected in a UPnP, but does not teach the above recited features.

Furthermore, in the Advisory Action dated October 30, 2008, the Examiner asserts that, “Ghandi et al. teaches a module which is a component of a device such as a software program or a system that implements some functionality and can be used as a control logic to control devices in a network, [Paragraph 58].” Assuming arguendo, that the module implements some functionality, Gandhi still fails to teach or suggest that the functionality corresponds to the managing of equipment management data using previously loaded management data modules.

In view of the above deficiencies, Appellants submit that independent claim 1 is patentable over the Gandhi.

Claim 5

Appellants submit that dependent claim 5 is patentable at least by virtue of its dependency on claim 1.

Further, Appellants respectfully submit that claim 5 recites additional features which are not disclosed by Gandhi. The Examiner asserts in the Office Action dated July 9, 2008, on page 4, that the bridge 120 as disclosed in FIG. 2 and paragraph [0197] of Gandhi, teaches “control means [which] loads management data modules according to at least a first mode...and a second mode...” as recited in claim 5. Gandhi, however, merely teaches that the Bridge is also a

Controlled Device which announces Bridged Devices and local Controlled Devices independently, with appropriate unique identifiers, Description Documents and associated URLs. (See paragraph [0197]). Merely announcing bridged devices and local controlled devices, however, fails to teach or suggest that the “control means loads management data modules according to at least a first mode...and a second mode...” as recited in claim 5.

Claims 6-10

Appellants submit that dependent claims 6-10 are patentable at least by virtue of their dependency on claim 1.

Claim 11

For the same reasons that claim 1 is patentable over the prior art, claim 11 is also patentable over the prior art as claim 11 recites features similar to those in claim 1.

Claim 15

Further, for the same reasons that claim 5 is patentable over the prior art, claim 15 is also patentable over the prior art as claim 15 recites similar claim features as claim 5, but in a method format.

2. Rejection of Claims 2, 3, 4, 12-14, and 16-20 based on Gandhi in view of Chobotaro

Claim 2

Appellants submit that Chobotaro does not teach or suggest the above-discussed features of claim 1 which are missing from Gandhi. Thus, Appellants submit that dependent claim 2 is patentable at least by virtue of their dependency on claim 1.

Further, Appellants respectfully submit that claim 2 recites additional features which are not disclosed by Gandhi in view of Chobotaro. The Examiner concedes in the Office Action

dated July 9, 2008, on page 7, that Gandhi fails to teach or suggest putting said new management data module loaded on standby so as to continue the management of said prior version of the equipment from said old management data module, until said new version of the equipment is integrated, but cites Chobotaro as allegedly curing the deficiencies of Gandhi. Appellants respectfully disagree with the Examiner's position.

Chobotaro teaches that that the device driver may need to update its control data *whenever the device driver is initiated*. (See paragraph [0016]). Chobotaro also teaches a computer system 100 which contains a device driver. (See paragraph [0010]). Thus, in Chobotaro, the updating of the device driver pertains to only a computer system 100. Accordingly, Chobotaro fails to teach or suggest "a new management data module is loaded, associated with a new version of equipment which has not yet been integrated in said communications network" as recited in claim 2.

Claim 3

Appellants submit that Chobotaro does not teach or suggest the above-discussed features of claim 1 which are missing from Gandhi. Thus, Appellants submit that dependent claim 3 is patentable at least by virtue of its dependency on claim 1.

Further, Appellants respectfully submit that claim 3 recites additional features which are not disclosed by Gandhi in view of Chobotaro. The Examiner asserts in the Office Action dated July 9, 2008, on page 8, "Gandhi et al., FIG. 2 that the remote controller 204 provides a user interface (UI) 240 that allows a user to enter control data for controlling the controlled device 206" as allegedly teaching "a device according to claim 2 wherein said standby consists firstly of allowing the management of said new version of the equipment from said new management

data module, without taking account of any error messages related to its non-integration in said communications network”. Appellants respectfully disagree with the Examiner’s position.

First, FIG. 2 of Gandhi fails to teach or suggest a remote controller 204, a user interface 240, or controlled device 206. Furthermore, the controlled device 106 in FIG. 2 of Gandhi fails to teach or suggest “said standby consists firstly of allowing the management of said new version of the equipment from said new management data module, without taking account of any error messages related to its non-integration in said communications network” as recited in claim 3.

Furthermore, Gandhi teaches “Networking, in this context, describes a style of connectivity that enables any networked device, without having established a prior relationship or maintaining a persistent relationship between the devices” (see Gandhi, Paragraph [0048]), but fails to teach or suggest “to send a message to said old management data module indicating that a change of version is under way and that said old management data module must not take account of at least some of the error messages related to a conjoint management of the old and new versions of the equipment” as recited in claim 3.

Claim 4

Appellants submit that Chobotaro does not teach or suggest the above-discussed features of claim 1 which are missing from Gandhi. Thus, Appellants submit that dependent claim 4 is patentable at least by virtue of its dependency on claim 1.

Appellants respectfully submit that claim 4 recites additional features which are not disclosed by Gandhi in view of Chobotaro. The Examiner asserts in the Office Action dated July 9, 2008, on page 10, that the combination of Gandhi and Chobotaro teaches “said control means

which, in a case of synchronization between said new version of the equipment and said new management data module, deletes said old management data module” as recited in claim 4. Appellants respectfully submit that one of ordinary skill in the art at the time of the presently-claimed invention would not have been motivated to combine Gandhi and Chobotaro as suggested by the Examiner because there is no suggestion of motivation for doing so in the references themselves or the knowledge available to one of ordinary skill in the art without resorting to impermissible hindsight. Chobotaro teaches updating the device driver for a single computer system. (See paragraph [0010]). Alternatively, Gandhi teaches networking of multiple devices. (See paragraph [0048]). Accordingly, Gandhi and Chobotaro teach fundamentally different systems because processes of Gandhi relate to networking *multiple* devices and processes of Chobotaro relate to device drivers of a *single* device. Thus, Gandhi and Chobotaro are inapposite because of the disparity as pointed out above, and the only possible motivation for the Examiner’s proposed combination is Appellants’ own disclosure, the reliance on which constitutes impermissible hindsight reconstruction under MPEP §2143 (see also *In re Vaeck*, 20 USPQ 1438 (Fed. Cir. 1991)).

Claims 12 and 16-20

Appellants submit that Chobotaro does not teach or suggest the above-discussed features of claim 11 which are missing from Gandhi. Thus, Appellants submit that dependent claims 12 and 16-20 are patentable at least by virtue of their dependency on claim 11.

Claim 13

Appellants submit that Chobotaro does not teach or suggest the above-discussed features of claim 11 which are missing from Gandhi. Thus, Appellants submit that dependent claim 13 is patentable at least by virtue of its dependency on claim 11.

Further, for the same reasons that claim 3 is patentable over the prior art, claim 13 is also patentable over the prior art as claim 13 recites similar claim features as claim 3, but in a method format.

Claim 14

Appellants submit that Chobotaro does not teach or suggest the above-discussed features of claim 1 which are missing from Gandhi. Thus, Appellants submit that dependent claim 14 is patentable at least by virtue of its dependency on claim 11.

Further, for the same reasons that claim 4 is patentable over the prior art, claim 14 is also patentable over the prior art as claim 14 recites similar claim features as claim 4, but in a method format.

3. Rejection of Claim 21 based on Gandhi in view of Chobotaro, and further in view of Bowman-Amuah

Claim 21

Appellants submit that Chobotaro and Bowman-Amuah do not teach or suggest the above-discussed features of claim 11 which are missing from Gandhi. Thus, Appellants submit that dependent claim 21 is patentable at least by virtue of its dependency on claim 11.

Conclusion

The USPTO is directed and authorized to charge the statutory fee (37 C.F.R. §41.37(a) and 1.17(c)) and all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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CLAIMS APPENDIX

CLAIMS 1-21 ON APPEAL:

1. A device for controlling equipment management data in a communications network comprising a network management system capable of managing said equipment management data using previously loaded management data modules, associated with said equipment management data and stored in a memory, said device comprising control means which when there is a request by said network management system to take over at least one new item of equipment management data in said communications network, extracts from said memory the management data module associated with said at least one new item of equipment, and then loads into said network management system each new management data module extracted, dynamically, so that the management by said network management system of said equipment management data in said communications network is not interrupted.
2. A device according to Claim 1, wherein said control means which controls, whenever a new management data module is loaded, associated with a new version of equipment which has not yet been integrated in said communications network while an old management data module associated with a prior version of the equipment is still loaded and said prior version of the equipment is still integrated in said communications network, i) to put said new management data module loaded on standby so as to continue the management of said prior version of the equipment from said old management data module, until said new version of the equipment is integrated, and then ii), when data indicating an integration of said new version of the equipment

are received, to put said new management data module loaded into service so as to provide the management of said new version of the equipment from said new management data module.

3. A device according to Claim 2, wherein said standby consists firstly of allowing the management of said new version of the equipment from said new management data module, without taking account of error messages related to its non-integration in said communications network, and secondly to send a message to said old management data module indicating that a change of version is under way and that said old management data module must not take account of at least some of the error messages related to a conjoint management of the old and new versions of the equipment.

4. A device according to Claim 2, wherein said control means which, in a case of synchronization between said new version of the equipment and said new management data module, deletes said old management data module.

5. A device according to Claim 1, wherein said control means loads management data modules according to at least a first mode in which said management data modules are loaded independently of dependencies between said management data modules and a second mode in which, in loading said management data modules, account is taken of the dependencies between them.

6. A device according to Claim 1, wherein each management data module consists of at least one descriptor.
7. A device according to Claim 6, wherein the at least one descriptor consists of at least one program code file and at least one configuration file.
8. A device according to Claim 7, wherein said at least one program code files of said at least one descriptor comprises first data designating a type to which an item of network equipment belongs, and another of said program code files of said at least one descriptor comprises second data designating a management information base definition associated with said equipment management data and accessible to said network management system.
9. A device according to Claim 7, wherein said program codes are in Java language.
10. A management device according to claim 9, in which said management device is coupled to management means and wherein management server in a communications network comprises said management means which manages network equipment using loaded management data modules, associated with said network equipment and stored in a memory.
11. A method of controlling equipment management data in a communications network, in which network equipment is managed using loaded management data modules, associated with said network equipment, wherein, in the case of a request to take over at least one new item of

equipment in said communications network, new management data module associated with said at least one new item of equipment is loaded dynamically so that management of other network equipment in said communications network is not interrupted.

12. A method according to Claim 11, wherein, in the case of the loading of said new management data module associated with said at least one new item of equipment not yet integrated in said communication network while an old management data module associated with a prior version of the equipment is still loaded and said prior version of the equipment is still integrated in said communications network, i) said new management data module loading is put on standby so as to continue the management of said prior version of the equipment using said old management data module, until said at least one new item of equipment is integrated, and then ii), on receiving data signalling the integration of said at least one new item of equipment, said new management data module loaded is brought into service so as to provide the management of said at least one new item of equipment using said new management data module.

13. A method according to Claim 12, wherein said putting on standby comprises firstly of allowing the management of said at least one new item of equipment using said associated new management data module without taking account of error messages related to non-integration in said communications network, and secondly of sending a message to said old management data module signalling a change of version is under way and that said old management data module

must not take account of at least some of the error messages related to a conjoint management of said prior version of the equipment and said at least one new item of equipment.

14. A method according to Claim 12, wherein, in the case of synchronization between said at least one new item of equipment and said new management data module, said old management data module is deleted.

15. A method according to Claim 11, wherein management data modules are loaded independently of dependencies thereof or taking account of said dependencies thereof.

16. A method according to Claim 12, wherein said management data module comprises of at least one descriptor.

17. A method according to Claim 16, wherein said at least one descriptor comprises of at least one program code file and at least one configuration file.

18. A method according to Claim 17, wherein one of said program code files of said at least one descriptor comprises first data designating a type to which an item of equipment in the network belongs, and another of said program code files of said at least one descriptor comprises second data designating a management information base definition associated with said item of equipment and is accessible.

19. A method according to Claim 18, wherein said program codes are in Java language.
20. A method according to claim 19, in which a management server comprises said device; and management means manages network technologies.
21. A method according to Claim 20, wherein said network technologies are chosen from a group comprising:
- transmission networks comprising WDM, SONET and SDH type;
 - data networks comprising Internet-IP and ATM type; and
 - voice networks comprising conventional, mobile and NGN type.

EVIDENCE APPENDIX:

Appellants are not submitting any evidence pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 or any other evidence entered by the Examiner and relied upon by Appellants in the appeal.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings.